

ii. Historical Nursing Home Construction Cost per Square Foot for Purposes of Evaluating Facility Age.

Age	Year	Cost	Age	Year	Cost	Age	Year	Cost
1	1984	49.72	2	1983	47.61	3	1982	45.99
4	1981	44.51	5	1980	41.77	6	1979	38.58
7	1978	35.20	8	1977	31.54	9	1976	29.43
10	1975	27.38	11	1974	25.17	12	1973	23.58
13	1972	21.37	14	1971	19.57	15	1970	18.27
16	1969	17.52	17	1968	16.32	18	1967	15.41
19	1966	14.86	20	1965	14.22	21	1964	13.87
22	1963	13.65	23	1962	13.20	24	1961	12.90
25	1960	12.77	26	1959	12.58	27	1958	12.23
28	1957	12.05	29	1956	11.84	30	1955	11.32

(10-22-93)

iii. For rates paid after June 30, 1989, the effective age of a facility shall be further adjusted when the cost of major repairs, replacement, remodeling, or renovation of a building initiated after April 1, 1985, results in the change in age by at least one (1) year when applied to the formula in Subsection 060.01.d.i. However, such change shall not decrease the effective age of a facility beyond the point where the increase in the property rental rate is greater than three-fourths (3/4) of the difference between the property rental rate "r" for a new facility at the time of the proposed rate revision and the property rental rate for which the facility was eligible immediately before the adjustment. The cost used for "C" shall be adjusted according to costs published by Marshall Swift Valuation Service to reflect current construction costs for average Class D convalescent hospitals. It is the provider's responsibility to notify the Department and document costs. The Department will adjust the age after documentation of costs. (10-22-93)

iv. In the event that new requirements are imposed by state or federal agencies, the Department shall reimburse the expenditures directly related to these requirements as an increase in the property rental rate if the expense is in excess of one hundred dollars (\$100) per bed. If the cost related to the requirement is less than one hundred dollars (\$100) per bed, the Department shall, within twelve (12) months of verification of expenditure, reimburse the Medicaid share of the entire cost of such new requirements, as a one (1) time payment to the facility.

(7-1-97)

v. At no time shall the property rental rate paid to a facility be less than the greater of the rate allowable to that facility on December 31, 1988, the rate allowable immediately following the first opening of a new facility after December 31, 1988, or the rate allowable immediately following the last, if any, age revision after December 31, 1988. However, subsequent to the application of this provision, before any property rental rate increase may be made for current or successor operators, the final settlement amount of any increase in the property rental rate will first be offset by an amount equal to the impact on final settlement of any rate decrease that would have occurred if the provisions of Subsections 060.01.d.iii. and 060.01.d.iv. of these rules had not been applied. This is intended to allow the postponement of the financial burden to providers of property rental rate decreases and to allow an equal offset of the financial burden to the state of subsequent property rate increases for a current or successor provider.

(7-1-97)

vi. Effective July 1, 1991, for freestanding nursing facilities, and effective October 1, 1996, for ICF/MR facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this Section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under Subsection 060.01 of these rules. This revised age shall not increase over time.

(7-1-97)

02. Grandfathered Rate. A "grandfathered property rental rate" for existing free-standing nursing facilities will be determined by dividing the audited allowable annualized property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985, by the total patient days in the period July 1, 1984, through June 30, 1985. (7-1-97)

a. Prior to audit settlement, the interim rate for property costs allowable as of January 1, 1985, shall be used to approximate the grandfathered rate. (11-4-85)

b. The grandfathered property rental rate shall be adjusted to compensate the facility for the property costs of major repairs, replacement, expansion, remodeling or renovation initiated prior to April 1, 1985, and completed during calendar year 1985. (12-28-89)

c. Beginning July 1, 1989, facilities receiving grandfathered rates may have those rates adjusted for modifications related to major repairs, replacement, expansion, remodeling, or renovation initiated after January 1, 1986, if the cost of these modifications would be sufficient to reduce the age of the facility by one (1) year or more according to Subsection 060.01.d.i. The grandfathered rate shall be revised after completion of modifications and shall be the greater of: (12-31-91)

- i. The grandfathered rate previously allowed; or (12-28-89)
- ii. The actual per diem property costs of amortization, depreciation and interest not applicable to the modifications for the audit period in which the modifications were completed plus the per diem rate of the first year amortization of the cost of these modifications when amortized over American Hospital Association guideline useful life or lives. However, no change in the grandfathered rate shall be allowed to change that rate by more than three-fourths (3/4) of the difference between the previous grandfathered rate and the property rental rate that would be paid for a new building at the time of the proposed rate revision. (12-28-89)
- d. The facility will be reimbursed a rate which is the higher of the grandfathered property rental rate as determined according to provisions of Subsection 060.02 or the property rental rate determined according to Subsections 060.01, 060.03, or 060.05 and Section 061. (12-31-91)

03. Leased Freestanding Nursing Facilities. Freestanding nursing facilities with leases will not be reimbursed in the same manner specified in Subsections 060.01 and 060.02 of these rules. Provisions in this Section do not apply to reimbursement of home office costs. Home office costs shall be paid based on reasonable cost principles. (7-1-97)

a. Facilities with leases entered into on or after March 30, 1981, are to be reimbursed in the same way as owned facilities with ownership costs being recognized instead of lease costs. (11-4-85)

b. Facilities with leases entered into prior to March 30, 1981, will not be subject to reimbursement according to the provisions of Subsections 060.01 or 060.02 or Section 061. Their property rental rate per day of care will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983, through July 1, 1984. (10-22-93)

i. Effective July 1, 1989, the property rental rates of leased nursing facilities (NFs) with leases entered into prior to March 30, 1981, may be adjusted to compensate for increased property costs resulting from facility modifications related to major repairs, replacement, expansion, remodeling, or renovation initiated after January 1, 1985, if the cost would be sufficient to reduce the age of the facility by one (1) year or more according to Subsection 060.01.d.i. The rate shall be revised after the completion of such modifications and shall be the greater of the property rental rate previously allowed under Subsection 060.03, or the actual per diem property costs for the amortization, depreciation, and interest not applicable to the modifications for the reporting period in which the modifications were completed, plus the per diem of the first year amortization of the modification expenses using the American Hospital Association guideline useful life of lives. However, no such rate change shall increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the previous rate and the property rental rate that would be allowed for a new building at the time of the proposed rate revision. (10-22-93)

ii. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. (10-22-93)

iii. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters' costs. After April 1, 1985, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by an option to purchase the facility, the property rental rate shall become the amount "R" determined by the formula in Subsection 060.01 as of the date on which the lease is or could be terminated. (10-22-93)

04. Sale Of A Facility. In the event of the sale of a facility, or asset of a facility, the buyer shall receive the property rental rate of Subsection 060.01, except in the event of a forced sale or except in the event of a first sale of a facility receiving a "grandfathered rate" after June 30, 1991, whereupon the property rental rate of the new owner shall be computed as if no sale had taken place. (10-22-93)

05. Forced Sale Of A Facility. In the event of a forced sale of a facility, or asset of a facility, where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, not modified by Section 061, whichever is higher, but not exceeding the rate that would be due the seller. (12-31-91)

061. (RESERVED).

062. PROPERTY REIMBURSEMENT TO INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR CLASS).

Beginning October 1, 1996, property costs of an ICF/MR shall be reimbursed in accordance with Section 060 of these rules except as follows: (7-1-97)

01. Restrictions. No grandfathered rates or lease provisions other than lease provisions in Section 062 of these rules will apply to ICF/MR facilities. (7-1-97)

02. Home Office And Day Treatment Property Costs. Distinct parts of buildings containing ICF/MR living units may be used for home office or day treatment purposes. Reimbursement for the property costs of such distinct parts may be allowed if these areas are used exclusively for home office or day treatment services. The portion of property cost attributed to these areas may be reimbursed as part of home office or day treatment costs without a reduction in the property rental rate. Reimbursement for home office and day treatment property costs shall not include costs reimbursed by, or covered by the property rental rate. Such costs shall only be reimbursed as property cost if the facility clearly included space in excess of space normally used in such facilities. At a minimum to qualify for such reimbursement, a structure would have square feet per licensed bed in excess of the average square feet per licensed bed for other ICF/MR living units within four (4) licensable beds. (7-1-97)

03. Leases For Property. Beginning October 1, 1996, ICF/MR facilities with leases will be reimbursed as follows: (7-1-97)

a. The property costs related to ICF/MR living units other than costs for major movable equipment will be paid by a property rental rate in accordance with Sections 060 and 062 of these rules. (7-1-97)

b. Leases for property other than ICF/MR living units will be allowable based on lease cost to the facility not to exceed a reasonable market rate, subject to other provisions of this chapter, and PRM principles including principles associated with related party leases. (7-1-99)T

063. -- 099. (RESERVED).

100. REASONABLE COST PRINCIPLES.

01. Principle. To be allowable, costs must be reasonable, ordinary, necessary and related to patient care. It will be expected that providers will incur costs in such a manner that economical and efficient delivery of quality health care to beneficiaries will result. (1-16-80)

02. Application. (12-31-91)

a. Reasonable costs of any services are determined in accordance with rules found in Sections 250 through 299 and Provider Reimbursement Manual (PRM), Sections 100 through 2600, as modified by the exceptions contained herein, is used to identify cost items to be included on Idaho's Uniform Cost Report.

(7-1-99)T

i. Reasonable cost takes into account both direct and indirect costs of providers of services, including normal standby costs.

(1-16-80)

ii. The objectives of these methods are that: first, the costs with respect to individuals covered by the program will not be borne by others not so covered. Second, the costs with respect to individuals not covered will not be paid by the program.

(1-16-80)

b. Costs may vary from one institution to another because of a variety of factors. It is the intent of the program that providers will be reimbursed the actual operating costs of providing high quality care, unless such costs exceed the applicable maximum base rate developed pursuant to provisions of Title 56, Idaho Code, or are unallowable by application of promulgated regulation.

(11-4-85)

c. Implicit in the intention that actual operating costs be paid to the extent they are reasonable is the expectation that the provider seeks to minimize its costs and that its actual operating costs do not exceed what a prudent and cost-conscious buyer pays for a given item or service.

(11-4-85)

d. If costs are determined to exceed the level that such buyers incur, in the absence of clear evidence that the higher costs were unavoidable, the excess costs are not reimbursable.

(1-16-80)

03. Costs Related To Patient Care. These include all necessary and proper costs in developing and maintaining the operation of patient care facilities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expense, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. Example: Depreciation is a method of systematically recognizing the declining utility value of an asset. To the extent that the asset is related to patient care, reasonable, ordinary, and necessary, the related expense is allowable when reimbursed based on property costs according to other provisions of this chapter. Property related expenses are likewise allowable.

(12-31-91)

04. Costs Not Related To Patient Care. Costs not related to patient care are costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. Example: Fines are imposed for late remittance of federal withholding taxes. Such fines are not related to patient care, are not necessary, and are not reflective of prudent cost conscious management. Therefore, such fines and penalties are not allowable.

(1-1-82)

05. Form And Substance. Substance of transactions will prevail over the form. Financial transactions will be disallowed to the extent that the substance of the transaction fails to meet reasonable cost principles or comply with rules and policy. Example: Lease-Purchase agreements are contracts which are executed in the form of a lease. The wording of the contract is couched in such a manner as to give the reader the impression of a true rental-type lease. However, the substance of this contract is a purchase of the property (see Subsection 354.04.c.iii.). If a lease contract is found to be in substance a purchase, the related payments are not allowable as lease or rental expense.

(12-31-91)

101. -- 109. (RESERVED).

110. ALLOWABLE COSTS.

Below is a list of the normally allowable costs, and the related definitions and explanations, which includes, but is not limited to, the following items: (7-1-97)

01. Auto And Travel Expense. Expense of maintenance and operation of a vehicle and travel expense related to patient care are reimbursable. The allowance for mileage reimbursement will not exceed the amount determined reasonable by the Internal Revenue Service for the period being reported on. Meal reimbursement will be limited to the amount that would be allowed by the state for a Department employee. Entertainment expense is allowable only if documentation is provided naming the individuals and stating the purpose of the meeting. Entertainment expense is allowable only for patient care related purposes. (7-1-97)

02. Bad Debts. Payments for efforts to collect past due Title XIX accounts are reimbursable. This may include the fees for lawyers and collection agencies. Other allowances for bad debt and bad debt write-off are not allowable. However, Title XIX coinsurance amounts are one hundred percent (100%) reimbursable (PRM, Section 300). (7-1-99)T

03. Bank And Finance Charges. Charges for routine maintenance of accounts are allowable. Penalties for late payments, overdrafts, etc., are not allowable. (1-16-80)

04. Contracted Service. All services which are received under contract arrangements are reimbursable to the extent that they are related to patient care or the sound conduct and operation of the facility. (1-16-80)

05. Depreciation. Depreciation on buildings and equipment is an allowable property expense for hospital-based facilities. Depreciation expense is not allowable for land. Lease-hold improvements may be amortized. Generally, depreciation and amortization must be calculated on a straight line basis and prorated over the estimated useful life of the asset. (10-22-93)

06. Employee Benefits. Employee benefits including health insurance, vacation, and sick pay are allowable to the extent of employer participation. See PRM, Chapter 21 for specifics. (7-1-99)T

07. Insurance. Premiums for insurance on assets or for liability purposes, including vehicles, are allowable to the extent that they are related to patient care. (1-16-80)

08. Interest. Interest on working capital loans is an allowable administrative expense. When property is reimbursed based on cost, interest on related debt is allowable. However, interest payable to related entities is not normally an allowable expense. Penalties are not allowable. (7-1-97)

09. Lease Or Rental Payments. Payments for the property cost of the lease or rental of land, buildings, and equipment are allowable according to Medicare reasonable cost principles when property is reimbursed based on cost for leases entered into before March 30, 1981. Such leases entered into on or after March 30, 1981, shall be reimbursed in the same manner as an owned asset. The cost of leases related to home offices and ICF/MR day treatment services shall not be reported as property costs and shall be allowable based on reasonable cost principles subject to other limitations contained herein. (7-1-97)

10. Payroll Taxes. The employer's portion of payroll taxes is reimbursable. (1-6-80)

11. Property Costs. Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. A property rental rate will be paid in lieu of costs in some circumstances according to other provisions of these rules. (7-1-97)

12. Property Insurance. Property insurance per licensed bed is limited to no more than two (2) standard deviations above the mean of the most recently reported property insurance costs, as used for rate setting purposes, per licensed bed of all facilities in the reimbursement class of the end of a facility's fiscal year. (11-4-85)

13. Repairs And Maintenance. Costs of maintenance and minor repairs are allowable when related to the provision of patient care. (1-16-80)

14. Salaries. Salaries and wages of all employees engaged in patient care activities or overall operation and maintenance of the facility, including support activities of home offices, shall be allowable. (1-16-80)

15. Supplies. Cost of supplies used in patient care or providing services related to patient care are allowable. (1-16-80)

16. Taxes. Property taxes on assets used in rendering patient care are allowable. Other taxes may be allowable. Specifics are covered in the Provider Reimbursement Manual, PRM, Chapter 21. Tax penalties are not allowable. (7-1-99)T

17. Compensation Of Owners. An owner may receive reasonable compensation for services subject to the limitations in this chapter, to the extent the services are actually performed, documented, reasonable, ordinary, necessary, and related to patient care. Allowable compensation shall not exceed the amount necessary to attract assistance from parties not related to the owner to perform the same services. The nature and extent of services must be supported by adequate documentation including hours performing the services. Where an average industry wide rate for a particular function can be determined, reported allowable owner compensation shall not exceed the average rate. Compensation to owners, or persons related to owners, providing administrative services is further limited by provisions in Sections 402 and 403 of these rules. In determining the reasonableness of compensation for services paid to an owner or a person related to an owner, compensation is the total of all benefits or remuneration paid to or primarily for the benefit of the owner regardless of form or characterization. It includes, but is not limited to, the following: (7-1-97)

a. Salaries wages, bonuses and benefits which are paid or are accrued and paid for the reporting period within one (1) month of the close of the reporting period. (7-1-97)

b. Supplies and services provided for the owner's personal use. (1-16-80)

c. Compensation paid by the facility to employees for the sole benefit of the owner. (1-16-80)

d. Fees for consultants, directors, or any other fees paid regardless of the label. (1-16-80)

e. Keyman life insurance. (1-16-80)

f. Living expenses, including those paid for related persons. (1-16-80)

111. -- 114. (RESERVED).

115. NONALLOWABLE COSTS.

In the absence of convincing evidence to the contrary, expenses listed below will be considered nonreimbursable. (1-16-80)

01. Charity Allowances. Cost of free care or discounted services. (1-16-80)

02. Nonpatient Care Related Activities. All activities not related to patient care. (1-16-80)

03. Accelerated Depreciation. Depreciation in excess of straight line except as otherwise provided (see Subsection 354.04.c.ii.). (12-31-91)

04. **Related Party Interest.** Interest on related party loans (see PRM, Sections 218.1 and 218.2). (7-1-99)T
05. **Related Party Nonallowable Costs.** All costs not allowable to providers are not allowable to a related party, whether or not they are allocated. (1-16-80)
06. **Acquisitions.** Cost of corporate acquisitions, e.g., purchase of corporate stock as an investment. (1-16-80)
07. **Holding Companies.** All home office costs associated with holding companies are not allowable (PRM, Section 2150.2A). (7-1-99)T
08. **Related Party Refunds.** All refunds, allowances, terms, etc., shall be deemed to be allocable to the members of related organizations, on the basis of their participation in the related purchases, costs, etc. (1-16-80)
09. **Fund Raising.** Certain fund raising expenses (PRM, Section 2136.2). (7-1-99)T
10. **Vending Machines.** Costs of vending machines. Barber and beauty shops. (1-16-80)
11. **Organization.** Organization costs (see PRM, Section 2134 and subsections of Section 2134 for specifics). (7-1-99)T
12. **Fees.** Franchise fees (PRM, Section 2133.1). (7-1-99)T
13. **Medicare Costs.** All costs of Medicare Part A or Part B services incurred by Medicare certified facilities, including the overhead costs relating to these services. (7-1-98)
14. **Yellow Pages Advertising.** Telephone book yellow page advertising costs in excess of the base charge for a quarter column advertisement for each telephone book advertised in. (1-1-82)
15. **Consultant Fees.** Costs related to the payment of consultant fees in excess of the lowest rate available to a facility. It is the provider's responsibility to make efforts to obtain the lowest rate available to that facility. The efforts may include personally contacting possible consultants and/or advertising. The lowest rate available to a facility is the lower of the actual rate paid by the facility or the lowest rate available to the facility, as determined by departmental inquiry directly to various consultants. Information obtained from consultants will be provided to facilities. Costs in excess of the lowest rate available will be disallowed effective thirty (30) days after a facility is notified pursuant to Subsection 115.15.b., unless the provider shows by clear and convincing evidence it would have been unable to comply with state and federal standards had the lowest rate consultant been retained or that it tried to but was unable to retain the lowest rate consultant. This Subsection in no way limits the Department's ability to disallow excessive consultant costs under other Sections of this chapter, such as Section 100 or 121, when applicable. (7-1-97)
16. **Goodwill.** Costs associated with goodwill as defined in Subsection 003.27 of these rules. (7-1-97)
17. **Interest.** Interest to finance nonallowable costs. (7-1-97)
18. **Property Costs.** Costs reimbursed based on a property rental rate according to other provisions of these rules. (7-1-97)

116. -- 119. (RESERVED).

120. HOME OFFICE COST PRINCIPLES.

The reasonable cost principles shall extend to the home office costs allocated to individual providers. In addition, the home office, through the provider, shall provide documentation as to the basis used to allocate its costs among the various entities it administers or otherwise directs. (1-1-82)

121. COMPENSATION OF RELATED PERSONS.

Compensation paid to persons related to owners or administrators is allowable only to the extent that services are actually performed and are necessary and adequately documented and the compensation for the services is reasonable. (1-1-82)

01. Compensation Claimed. Compensation claimed for reimbursement must be included in compensation reported for tax purposes and be actually paid. (1-1-82)

a. Where such persons perform services without pay, no cost may be imputed. (1-1-82)

b. Time records documenting actual hours worked are required in order that the compensation be allowable for reimbursement. (1-1-82)

c. Compensation for undocumented hours worked will not be a reimbursable cost. (1-1-82)

02. Related Persons. A related person is defined as having one (1) of the following relationships with the provider: (1-1-82)

a. Husband or wife; (1-1-82)

b. Son or daughter or a descendent of either; (1-1-82)

c. Brother, sister, stepbrother, stepsister or descendent thereof; (1-1-82)

d. Father, mother, stepfather, stepmother, an ancestor thereof, or a brother or sister thereof; (1-1-82)

e. Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; (1-1-82)

f. A descendent of a brother or sister of the provider's father or mother; (1-1-82)

g. Any other person with whom the provider does not have an arms length relationship. (1-1-82)

122. LEGAL CONSULTANT FEES AND LITIGATION COSTS.

Costs of legal consultant fees and litigation costs incurred by the provider will be handled in accordance with the following: (1-1-82)

01. In General. Legal consultant fees unrelated to the preparation for or the taking of an appeal of an audit performed by the Department of Health and Welfare, Office of Audit, or litigation costs incurred by the provider in an action unrelated to litigation with the Department of Health and Welfare will be allowed as a part of the total per diem costs of which the Medicaid Program will reimburse a portion according to the percentage of Medicaid patient days. (1-1-82)

02. Administrative Appeals. In the case of the provider contesting in administrative appeal, the findings of an audit performed by the Department of Health and Welfare, the costs of the provider's legal counsel will be reimbursed by the Medicaid Program only to the extent that the provider prevails on the issues involved. The extent that the provider prevails will be determined based on the ratio of the total dollars at issue for the audit period at issue in the hearing to the total dollars ultimately awarded to the provider for that audit period by the hearing officer or subsequent adjudicator. (10-22-93)

03. Other. All other litigation costs incurred by the provider in actions against the Department of Health and Welfare will not be reimbursable either directly or indirectly by the Medicaid Program except where specifically ordered by a court of law. (1-1-82)

123. OCCUPANCY ADJUSTMENT FACTOR.

In order to equitably allocate fixed costs to the Medicaid patients in cases where a facility is not maintaining reasonable occupancy levels, an adjustment will be made. No occupancy adjustment will be made against property reimbursement paid in lieu of property costs. The adjustment will be made as follows: (11-4-85)

01. Occupancy Levels. If a facility maintains an average occupancy of less than eighty percent (80%) of a facility's capacity, the total property costs will be prorated based upon an eighty percent (80%) occupancy rate. The facility's average occupancy percentage will be subtracted from eighty percent (80%) and the resultant percentage will be taken times the total fixed costs to determine the nonallowable fixed costs. (1-1-82)

02. Occupancy Adjustment. For purposes of an occupancy adjustment, facility capacity will be computed based upon the greater of the largest number of beds for which the facility was licensed during the period being reported on or the largest number of beds for which the facility was licensed during calendar year 1981, except where a portion of the facility has been converted to use for nonroutine nursing home activities or the facility is newly constructed and has entered the Medicaid Program subsequent to January 1, 1982. If the facility's designed capacity has been changed, the number of beds used to determine occupancy will be lowered by the amount of capacity being converted to nonroutine nursing home activities. Facility capacity for a new facility will be based on the number of beds approved by the certificate of need process less any capacity converted to nonroutine nursing home activities. (1-1-82)

03. Fixed Costs. For purposes of an occupancy adjustment fixed costs shall be considered all allowable and reimbursable costs reported under the property cost categories. (11-4-85)

04. Change In Designed Capacity. In cases where a provider changes the designed capacity of a facility, the average occupancy for the period prior to the change and subsequent to the change will be computed and each period will be adjusted separately. If the designed capacity is increased, the increased number of beds will not be subject to this adjustment for the first six (6) months following their licensure. (1-1-82)

05. New Facility. In the case of a new facility being licensed and occupied, the first six (6) months occupancy level will not be subject to this adjustment. (1-1-82)

124. RECAPTURE OF DEPRECIATION.

Where depreciable assets that were reimbursed based on cost and were used in the Medicaid Program by a facility subsequent to January 1, 1982, and for which depreciation has been reimbursed by the Program, are sold for an amount in excess of their net book value, depreciation so reimbursed shall be recaptured from the buyer of the facility in an amount equal to reimbursed depreciation after January 1, 1982, or gain on the sale, whichever is less. (9-12-86)